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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
6

7 UNITED STATES OF AMERICA,
8

9 Plaintiff,

10 v.

11 VINCENT FRANCO,
12

Defendant.

Case Nos. 2:04-CR-00105-KJD-RJJ
2:06-CV-01416-KJD-LRL

ORDER

13 On November 3, 2006, Movant Vincent Franco filed a Motion Pursuant to 28 U.S.C. § 2255
14 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (#46). Movant has now
15 filed a Motion to Withdraw “Motion Pursuant to 28 U.S.C. § 2255” (#49). The Court liberally
16 construes this motion as one seeking voluntary dismissal pursuant to Rule 41(a) of the Federal Rules
17 of Civil Procedure. See Boag v. MacDougall, 454 U.S. 364, 365 (1982). After having read and
18 considered the motion, and good cause finding,

19 IT IS HEREBY ORDERED that the Motion to Withdraw Defendant Franco’s “Motion
20 Pursuant to 28 U.S.C. § 2255” (#49) is **GRANTED**.

21 IT IS FURTHER ORDERED that case no. 2:06-CV-01416-KJD-LRL is **DISMISSED**
22 **WITHOUT PREJUDICE**.

23 DATED this 18th day of December 2006.

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26 Kent J. Dawson
United States District Judge